

### **REMARKS**

Claims 3 and 17-37 remain pending in the present application. Claims 1, 2, 4 and 6-16 have been cancelled. Claims 3 and 17 have been amended. Claims 23-37 are new. Basis for the amendments and new claims can be found throughout the specification, claims and drawings originally filed.

### **CLAIMS 17-22**

Applicant filed new Claims 17-22 in an amendment filed March 9, 2005. Applicant has confirmed from the PAIR system that this amendment including Claims 17-22 was entered into the application. Claim 17 has been amended for issues relating to clarity and antecedent basis. Applicant respectfully requests the examination of Claims 17-22 in addition to the currently pending claims in this application and that if the next paper from the USPTO is not a Notice of Allowance that it is a Non-Final Office Action due to the non-examination of pending Claims 17-22.

### **REJECTION UNDER 35 U.S.C. § 103**

Claims 1-2, 4, 8-11 and 14-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ichimura (U.S. Pat. No. 6,501,968) in view of Reichelt (U.S. Pat. No. 6,427,072). Claims 1, 2, 4, 8-11 and 14-16 have been cancelled. Reconsideration of the rejection is respectfully requested.

Claim 3 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Ichimura (USP 6,501,968) in view of Nonogaki (USP 6,625,478 B1). Applicant respectfully traverses this rejection.

The main reference cited by the Examiner, Ichimura, discloses a digital camera as an additional function to a communication function. In the case of the digital camera, it is not conceivable or not possible to terminate its operation during the time it is operating. That is, the digital camera is operated by pressing a shutter and memorizing images, both being completed in a very short period of time. Accordingly, the operation of the digital camera cannot be terminated during the time it is being operated. Instead, only the next operation of the digital camera may be prohibited when a battery voltage level is low. Nonogaki only contributes the music sounds for Ichimura.

In contrast, the additional function in the present invention is a function of producing music sounds. It is meaningful to terminate this additional function during a period in which the music sounds are in actual operation, when the battery capacity becomes low. Claim 3 has been amended to define the music sounds generating function is terminated while it is in actual operation.

Thus, Applicant believes Claim 3, as amended, patentably distinguishes over the art of record. Reconsideration of the rejection is respectfully requested.

Claims 6 and 7 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ichimura (U.S. Pat. No. 6,501,968) in view of Reichelt (U.S. Pat. No. 6,427,072) as applied to Claim 4 above, and further in view of Nonogaki (U.S. Pat. No. 6,625,478 B1). Claims 6 and 7 have been cancelled. Reconsideration of the rejection is respectfully requested.

Claims 12 and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Ichimura (U.S. Pat. No. 6,501,968) in view of Reichelt (U.S. Pat. No. 6,427,072) as applied to Claim 4 above, and further in view of Cathey, et al. (U.S. Pat. No. 6,201,977).

Claims 12 and 13 have been cancelled. Reconsideration of the rejection is respectfully requested.

#### **NEW CLAIMS**

New Claims 23-33 are dependent claims which ultimately depend from Claim 3 and which Applicant believes properly further limit Claim 3.

New Claim 34 depends from Claim 3 and it defines setting an actual threshold. Ichimura teaches setting a time for a future communication and then it calculates a battery threshold. An actual battery threshold is never set in Ichimura.

New Claims 35 and 36 define means for automatically terminating operation of the music sounds. Ichimura does not automatically terminate the digital camera function, it first asks if it can terminate the function.

New Claim 37 is an independent claim which is similar to pending Claim 17 but the “while it is in actual operation” limitation has been added.

#### **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the

Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

Dated: October 7, 2005

By:   
Michael J. Schmidt, 34,007

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, Michigan 48303  
(248) 641-1600

MJS/pmg